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08/953,719	10/17/1997	DAISUKE YOSHIDA	35.C12338	4164

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NEW YORK, NY 10112

EXAMINER

PIZIALI, JEFFREY J

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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EXAMINER

ART UNIT

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Commissioner for Patents

The reply filed on 22 September 2005 is not fully responsive to the prior Office Action (mailed 22 August 2005), because the submitted "Request for Withdrawal of the Office Action Communication" is merely seeking for a second time to elect a previously identified non-elected (and withdrawn) invention.


As explained in the Office Action mailed 22 August 2005, the Amendment filed 12 May 2003 canceled all claims drawn to the originally presented invention. All six independent claims 1, 18, 49, and 52-54 (as newly altered/added by the Amendment filed 12 May 2003) are drawn to a non-elected invention, and any continued attempts to elect the non-elected invention will continue to be viewed as an incomplete and improper (i.e. non bona fide) response. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

In response to the Applicants' remarks (on pages 16-18 of the "Request for Withdrawal of the Office Action Communication" submitted 22 September 2005), the examiner first of all respectfully apologizes for the two-year processing delay in deeming the Amendment of 12 May 2003 to be non-responsive. However, this delay appears to have been primarily the result of earlier (hopefully anomalous) paper-processing and electronic-conversion problems within the USPTO's technical support department -- an unfortunate situation well outside the hands of this humble examiner.


The Applicants contend the Amendment (filed 12 May 2003, and pertaining to claims 1, 18, 49, and 52-54) merely seeks to correct claimed subject matter previously included by mistake. However, with all due respect, there was no reason at the time of the originally submitted invention (per the Amendment filed 27 September 2002) for the examiner to suspect the claimed subject matter of "a horizontal scanning circuit for sampling the digital video in the INITIAL SEQUENCING order" had been recited in error (in all three independent claims pending at the time, it might be added).

While the Applicants may not have explicitly argued (prior to the Office Action dated 10 February 2003) that such aforementioned subject matter contributes to the patentability of the invention, the examiner did in fact initially examine the instant invention as incorporating such subject matter. And although the Applicants may well indeed consider the subject matter in question as forming only "a minor part of the claims" (see page 16, bottom paragraph of the "Request for Withdrawal of the Office Action Communication" submitted 22 September 2005), the examiner does not have the luxury of ignoring claim limitations (even seemingly minor ones). A complete search and examination of the originally presented claims was provided on 10 February 2003; and the Amendment filed 12 May 2003 results in a new, hitherto unexamined, species of invention. As such, holding the last-filed Amendment (filed 12 May 2003) as non-responsive is deemed proper, necessary, and hereby maintained at this time.

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.



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J.P.
21 December 2005